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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY
OF BURBANK; AND DOES 1 THROUGH
100, INCLUSIVE.

Defendants.

BURBANK POLICE DEPARTMENT; CITY
OF BURBANK,

Cross-Complainants,

-vs-

OMAR RODRIGUEZ, and Individual,

Cross- Defendant

CASE NO.: BC 414 602

**PLAINTIFF STEVE KARAGIOSIAN'S *EX*
PORTE APPLICATION TO CONTINUE
HEARING ON MOTION FOR SUMMARY
JUDGMENT; MEMORANDUM OF POINTS
AND AUTHORITIES; DECLARATION OF
SOLOMON E. GRESEN**

Assigned to: Hon. Joanne B. O'Donnell, Judge
Dept. 37

Complaint Filed: May 28, 2009

Trial Date: 06/08/2011

Plaintiff Steve Karagiosian ("Karagiosian" or "Plaintiff") hereby applies *ex parte* for an order continuing the hearing on Defendant Burbank Police Department and City of Burbank's Motion for Summary Judgment/Adjudication against Karagiosian, currently set for hearing on July 20, 2010, to a date at least 45 days after August 13, 2010 (the continued date of Defendants' Motion

1 for Summary Judgment/Adjudication against Plaintiff Cindy Guillen-Gomez) that is convenient for
2 the Court.

3 This application is based on the grounds that good cause exists therefor in that:

4 1. Defendants filed burdensome motions for summary judgment/adjudication against
5 Plaintiffs Cindy Guillen-Gomez (“Guillen MSJ”) and Steve Karagiosian (“ Karagiosian MSJ”),
6 originally set for hearing on June 30, 2010, and July 20, 2010, respectively. On June 11 this Court
7 continued the hearing on the Guillen MSJ from June 30 to August 13 on the ground that the motion
8 appeared to be “exceptionally burdensome.” Plaintiffs seek a corresponding continuance of the
9 hearing on the equally burdensome Karagiosian MSJ.

10 2. Plaintiffs need additional time to take the depositions of Armen Dermenjian, Bill Taylor,
11 ex-Chief Tim Stehr and Janice Lowers. As is set forth in detail in the attached Declaration of
12 Solomon E. Gresen, these depositions are critical to Plaintiffs’ opposition, and Plaintiffs have been
13 more than diligent in pursuing discovery. (There have been over 28 deposition sessions so far –
14 deposition dates now need to be cleared not only with the parties, but also with the discovery referee
15 – and a barrage of law and motion matters.

16 3. Plaintiff’s attorneys, the Law Offices of Rheuban & Gresen, have retained an attorney to
17 assist in the opposition of Defendants’ motion. This attorney, Florence F. Cameron, was in an
18 automobile accident on June 9, 2010. Ms. Cameron’s car was struck by another car and slammed
19 into a concrete wall. Ms. Cameron was shaken up, badly bruised, and received some soft muscle
20 tissue damage. Her car was totaled. Ms. Cameron has already missed a day and a half of work due
21 to the accident, and continues to experience knee problems that will cause her to miss additional
22 days from work.

23 4. Plaintiffs have filed a motion to recuse Defendants’ counsel in this action and intend to
24 file a second motion to recuse, on different grounds, within days. The grounds for the recusal
25 include, without limitation:

26 A. The improper and unethical continued use of a confidential attorney-client privileged
27 document which was inadvertently disclosed during discovery. Both Larry Michaels of Mitchell,
28 Silverberg & Knupp, and Linda Savitt of Ballard, Rosenberg, Golper and Savitt were ordered by the

1 Discovery Referee and this Court to return the confidential documents, and have failed to do so.
2 Moreover, both firms used the document in numerous ways throughout the litigation, as set forth in
3 the moving papers. It would, therefore, give the moving party an unfair advantage to allow these
4 attorneys to continue to represent the City of Burbank until this issue is resolved.

5 B. Continuing retaliation on the part of the Burbank City Attorney's office, particularly Julie
6 Scott and Carol Humiston. On September 28, 2009, City Attorney Julie Scott improperly,
7 unethically and tortiously communicated with Plaintiff Cindy Guillen-Gomez during a sexual
8 harassment training session. Ms. Scott threatened Plaintiff Guillen-Gomez, and told the assembled
9 50 or so officers that her case was "Bullshit." More recently, on January 20, 2010, City Attorney
10 Carol Humiston retaliated against Plaintiff Steve Karagiosian by violating his rights under the Police
11 Officers Procedural Bill of Rights, Government Code § 3300, et seq. The deposition was then taken
12 of a L.A. District attorney (Rusty Moore) in which he opined that the only reason for Ms. Humiston
13 to have contacted him and tried to gather "dirt" on Plaintiff Karagiosian was in retaliation against
14 Karagiosian for filing the within complaint.

15 5. Plaintiffs will seek leave to amend the complaint herein to allege post-complaint acts of
16 retaliation including, but not limited to, those described above, and thus Defendants' MSJ should be
17 postponed to allow it to be based on the amended complaint.

18 6. The Karagiosian trial has been continued to June 8, 2011, and Defendants will not be
19 prejudiced by a continuance of the MSJ hearing.

20 This application is brought pursuant to California Code of Civil Procedure §437c(h),
21 California Rules of Court, Rule 1201, et seq., and the Court's inherent power to control its
22 proceedings, and is based on this application, the attached Memorandum of Points and Authorities
23 and Declaration of Solomon E. Gresen, the Declaration of Florence F. Cameron filed herewith; the
24 pleadings filed in connection with this case, including Defendants' Motion for Summary

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1 Judgment/Adjudication against Karagiosian; and such other and further evidence as the court allows.

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Dated: June 17, 2010

LAW OFFICES OF RHEUBAN & GRESEN

By: *SM*
Steven M. Cischke
Attorneys for Plaintiffs

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PRELIMINARY STATEMENT**

3 This is an action for discrimination, harassment and retaliation, brought by Plaintiff Steve
4 Karagiosian ("Karagiosian" or "Plaintiff"), and other current or former officers of the Burbank
5 Police Department, against Defendants City of Burbank and the Burbank Police Department.
6 Defendants filed a Motion for Summary Judgment/Adjudication against Plaintiff Cindy Guillen-
7 Gomez ("Guillen MSJ") originally set for hearing on June 30, 2010, and a Motion for Summary
8 Judgment/Adjudication against Plaintiff Steve Karagiosian ("MSJ") set for hearing on July 20. On
9 June 11 this Court continued the hearing on the Guillen MSJ from June 30 to August 13 on the
10 ground that the motion appeared to be "exceptionally burdensome." Plaintiff seeks a corresponding
11 order continuing the hearing on Defendants' MSJ to a date at least 45 days after August 13 (the new
12 hearing date for the Guillen MSJ) that is convenient for the Court.

13 **II. ADDITIONAL TIME IS NEEDED TO RESPOND TO**
14 **DEFENDANTS' VOLUMINOUS MOVING PAPERS**

15 Plaintiffs' case presents as one for discrimination, harassment and retaliation under the Fair
16 Employment and Housing Act ("FEHA"). In their separate summary judgment motions against
17 Guillen and Karagiosian, however, Defendants have overwhelmed Plaintiff with a mountain of
18 moving papers. Responding to the motions, including the Separate Statements, has proven to be a
19 monumental undertaking.

20 These are no ordinary Motions for Summary Judgment, and additional time is warranted.
21 Simply stated, Plaintiff needs more time -- more time to work through responses to the hundreds of
22 alleged undisputed facts, and more time to work through managing the dozens of issues created by
23 Defendants. The small staff at Plaintiff's law firm, the Law Offices of Rheuban & Gresen, has been
24 stretched to the limit. Defendants are using the City Attorney's office and two outside law firms to
25 tag team against Plaintiffs -- the Guillen MSJ was prepared by one firm, the Karagosian MSJ by
26 another.

27 For these reasons, the Court should grant Plaintiff's *ex parte* application and continue the
28 hearing on the Karagiosian MSJ, just as it did with respect to the Guillen MSJ.

1 **III. ADDITIONAL TIME IS NEEDED TO CONDUCT DISCOVERY**

2 Despite the 28 sessions of depositions that have been taken in this case, and having devoted a
3 majority of the firms resources to this case and the companion case of *Dunn v. City of Burbank* since
4 they were filed, Plaintiffs counsel needs additional time to conduct discovery with respect to the
5 Karagiosian MSJ.

6 It would not be reasonable to say that Plaintiffs should have done this discovery before now.
7 In addition to the 28 sessions of depositions taken in this case, Plaintiffs have been forced to reply to
8 an endless barrage of law and motion matters. The following list of proceedings held in the case is
9 taken from the Court's website :

10	06/11/2010	Exparte proceeding
11	05/28/2010	Exparte proceeding
12	05/21/2010	Motion for Summary Judgment (& trial setting conference (FSC date of
13		8-19-10 and T/D of 8-25-10 advanced & vacated))
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18	12/30/2009	Motion for Sanctions
19	12/09/2009	Motion for an Order
20	11/23/2009	Exparte proceeding
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22	10/13/2009	Motion Hearing
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24	10/02/2009	Motion to Compel
25	10/01/2009	Exparte proceeding
26	09/30/2009	Motion for an Order
27	09/28/2009	OSC-Failure to File Req Ent of Def (& Default/Judgment or, C/M/Conf.;
28	08/28/2009	Order Re: Related Cases (RE: BC414602 & BC417928)

1 08/27/2009 Order to Show Cause Re Prelim Inj (and TRO)

2 08/13/2009 Ex parte proceeding

3 08/06/2009 Ex parte proceeding

4 07/27/2009 Ex parte proceeding

5 07/22/2009 Motion for an Order

6 Most recently, and since the time Plaintiffs received the Notice of the Karagiosians MSJ,
7 Plaintiffs have had to prepared oppositions to both the Summary Judgment Motion for Elfego
8 Rodriguez and the Guillen MSJ. This has taken a substantial amount of time, and resulted in the
9 continuance of the hearing date and response dates on the Guillen MSJ. Because Plaintiffs were kept
10 busy working on the oppositions to Elfego Rodriguez MSJ and the Guillen MSJ, Plaintiffs have not
11 had the time to take these depositions of those who filed declarations in support of the Karagosian
12 MSJ. Plaintiffs believe these depositions are important because they believe that the individuals lack
13 sufficient foundation with which to opine on the various matters set forth in their declarations. More
14 specifically, Plaintiffs believe that the declaration of Janice Lower, and the statements contained
15 therein, lack sufficient foundation, and that examination on this topic would allow Plaintiff
16 Karagosian to refute the statements contained in her declaration.

17 In addition, there are three depositions which are necessary to present a complete opposition
18 to the Karagiosian MSJ – the depositions of Armen Dermenjian, Bill Taylor and ex-Chief Tim Stehr.
19 The reasons the depositions have not occurred thus far are numerous. Most importantly, Plaintiffs
20 were required to prepare oppositions to lengthy summary judgment motions with respect to Cindy
21 Guillen-Gomez and Elfego Rodriguez, and have learned from prior summary judgment motions that
22 this Court was dissatisfied with the content of declarations filed in opposition thereto.

23 Therefore, Plaintiffs need to complete the depositions of Bill Taylor, Armen Dermenjian and
24 Tim Stehr (or at least one or two sessions of each) to use to oppose the Karagiosian MSJ. With
25 respect to Chief Stehr, Plaintiffs believe that during the deposition Plaintiffs will learn numerous
26 facts which will be incorporated into the opposition of the MSJ – specifically, the manner in which
27 Chief Stehr describes the act and actions taken against Officer Karagosian will likely conflict with
28 descriptions provided by Lt. Omar Rodriguez, and presumably by Deputy Chief Bill Taylor, which

1 will create triable issues in the case.

2 Lt. Dermenjian was the supervising officer who received complaints from Officer Karagosian
3 of racism, harassment and discrimination. His deposition is therefore necessary to support Plaintiffs
4 causes of action in that regard. Deputy Chief Bill Taylor has knowledge of the budgetary issues
5 surrounding the disbanding of the SED, as well as complete familiarity with matters complained of
6 by Officer Karagosian. It is Plaintiffs' belief that Deputy Chief Taylor will reveal in his deposition
7 numerous facts which will be able to support Plaintiffs claims for harassment and discrimination,
8 including without limitation, the identify of individuals who received the complaints, the manner in
9 which the Burbank Police Department disregarded those complaints, and the institutional
10 indifference which lead to the hostile working environmental.

11 Furthermore, Plaintiffs wish to depose Janice Lowers, a Captain who purportedly made the
12 decision to disband SED. Plaintiffs are informed that Janice Lowers retired in the same time frame
13 as the decision-making process, and it makes little sense that an officer on her way out would make
14 decisions as to whether a particular unit would survive her retirement, particularly when an identical
15 unit was being created at that time by then-Chief Stehr to do the same job. Janice Lowers was then
16 brought back, and Plaintiffs are informed and believe she was paid a substantial amount of money to
17 assist in the defense of this lawsuit. Plaintiffs believe her deposition will reveal information which
18 will allow Plaintiffs to show that the Burbank Police Department did, in fact, disband the SED to
19 retaliate against Plaintiff Karagiosian, among others, and that many of the actions taken against
20 Plaintiff Karagiosian since that time were retaliatory, discriminatory and in violation of the Fair
21 Employment and Housing Act.

22 Initially, Plaintiff's counsel believed that the deposition testimony from the fifteen to twenty
23 (15-20) parties and witnesses in this case, which have been obtained thus far, would be sufficient to
24 refute Defendants' MSJ. However, this Court's rulings on the motions for summary judgement with
25 respect to Plaintiffs Jamal Childs and Elfego Rodriguez have made it clear that this Court interprets
26 the holding in *Beyda v. City of Los Angeles* (1998) 65 Cal.App.4th 511, differently than does
27 Plaintiff's counsel. Consequently, Plaintiff's counsel now knows that they must develop additional
28 evidence with which to oppose this MSJ, and that is also why Plaintiff is so requesting at this time.

1 Plaintiff would be severely prejudiced if he is not allowed to conduct further discovery
2 necessary to oppose the MSJ. Based on the recent ruling on the MSJ concerning Plaintiff Elfego
3 Rodriguez, it is clear that this Court does not believe that enough evidence has been gathered to
4 support Plaintiffs' causes of action. For these reasons, the court should grant Plaintiff's *ex parte*
5 application and continue the hearing date on the Karagiosian MSJ.

6 The trial dates in this case have been continued to the summer of 2011, and no prejudice will
7 accrue to Defendants by a continuance of the hearing on the Karagiosian MSJ at this time.

8 **IV. ADDITIONAL TIME IS NEEDED DUE TO**
9 **A CAR ACCIDENT INVOLVING PLAINTIFF'S COUNSEL**

10 Plaintiff's attorneys, the Law Offices of Rheuban & Gresen, have hired an attorney to assist
11 in the opposition of Defendants' motion. This attorney, Florence F. Cameron, was in an automobile
12 accident on June 9, 2010. Ms. Guillen's car was struck by another car and slammed into a concrete
13 wall. Ms. Cameron was shaken up, badly bruised and received some soft muscle tissue damage. Her
14 car was totaled. Ms. Cameron has already missed a day and a half of work due to the accident, and
15 continues to experience knee problems that will cause her to miss additional days from work. .

16 For these reasons, the court should grant Plaintiff's *ex parte* application and continue the
17 hearing date on Defendants' MSJ.

18 **V. THE HEARING SHOULD BE CONTINUED UNTIL**
19 **AFTER PLAINTIFF'S MOTION TO RECUSE DEFENSE COUNSEL IS HEARD**

20 Plaintiffs have filed a motion to recuse Defendants' counsel in this action and intends to file a
21 second motion to recuse, on different grounds, within a week. The grounds for the recusal include,
22 without limitation:

23 **A. The Improper and Unethical Continued Use of a Confidential Attorney-Client**
24 **Privileged Document Which Was Inadvertently Disclosed During Discovery**

25 Both Larry Michaels of Mitchell, Silverberg & Knupp, and Linda Savitt of Ballard,
26 Rosenberg, Golper and Savitt were ordered by the Discovery Referee and this Court to return the
27 confidential documents, and have failed to do so. Moreover, both firms used the document in
28 numerous ways throughout the litigation, as set forth in the moving papers. It would, therefore, give

1 the moving party an unfair advantage to allow these attorneys to continue to represent the City of
2 Burbank until this issue is resolved.

3 **B. Continuing Retaliation on the Part of the Burbank City Attorney's Office,**
4 **Particularly Julie Scott and Carol Humiston.**

5 On September 28, 2009, City Attorney Julie Scott improperly, unethically and tortiously
6 communicated with Plaintiff Cindy Guillen-Gomez during a sexual harassment training session. Ms.
7 Scott threatened Plaintiff Guillen-Gomez, and told the assembled 50 or so officers that her case was
8 "Bullshit." More recently, on January 20, 2010, City Attorney Carol Humiston retaliated against
9 Plaintiff Steve Karagiosian by violating his rights under the Police Officers Procedural Bill of
10 Rights, Government Code § 3300, et seq. The deposition was then taken of a L.A. District attorney
11 (Rusty Moore) in which he opined that the only reason for Ms. Humiston to have contacted him and
12 tried to gather "dirt" on Plaintiff Karagiosian was in retaliation against Karagiosian for filing the
13 within complaint.

14 Defendants' MSJ should not be heard until Plaintiff's motions to recuse are heard and ruled
15 upon. Indeed, all activity on the case should be stayed pending the outcome of those motions.

16 **VI. THE HEARING SHOULD BE CONTINUED TO ALLOW**
17 **PLAINTIFF TO AMEND THE COMPLAINT**

18 Plaintiffs will seek to amend the Complaint herein – to allege post-complaint acts of
19 retaliation and other violations of Plaintiffs' rights – prior to the MSJ hearing. Unless that hearing
20 date is changed today, it will be impossible for either party or the court to address post-complaint
21 actions.

22 A defendant's motion for summary judgment "necessarily includes a test of the sufficiency of
23 the complaint." *American Airlines, Inc. v. County of San Mateo* (1996) 12 Cal.4th 1110, 1118. The
24 court must accept the allegations of the complaint as true and cannot consider facts alleged in
25 opposing declarations. *Id.* Unless Plaintiff is granted leave to amend her Complaint *prior* to the
26 Defendants' MSJ, the court will not be able to consider Plaintiff's post-complaint conduct in ruling
27 on Defendants' MSJ.

28 In the furtherance of justice, trial courts may allow amendments to pleadings, and if

1 necessary, postpone trial. *Honig v. Financial Corporation of America* (1992) 6 Cal.App.4th 960,
2 965. *Honig* is based on facts almost identical to this case. Honig and five other employees sued
3 their employer and alleged eight causes of action. Two and a half months later, Honig was
4 terminated. Two years later, and two months prior to trial, the employer filed motions for summary
5 judgment. Honig and the other plaintiffs filed oppositions to the motions for summary judgment *and*
6 a motion to amend the complaint to add facts concerning Honig's termination, facts in further
7 support of the retaliation cause of action, and facts concerning Honig's difficulties in obtaining new
8 employment. The trial court denied the motion to amend, and granted the summary judgment.

9 The appellate court reversed, finding that the proposed amendments,
10 "finished telling the story begun in the original complaint. The added
11 assertions described the continuation of the events asserted in the
12 initial pleading. The parties were fully aware of the events which
13 occurred subsequent to the original charges . . .

14 The court rejected the employer's arguments related to prejudice and the statute of
15 limitations, and concluded that the court abused its discretion in refusing to grant the motion to
16 amend the Complaint.

17 **VII. THIS COURT HAS THE AUTHORITY TO CONTINUE THE HEARING**

18 This Court has the authority to continue the hearing on the Karagiosian MSJ.

19 "If it appears from the affidavits submitted in opposition to a motion for summary
20 judgment or summary adjudication or both that facts essential to justify opposition may exist
21 but cannot, for reasons stated, then be presented, the court shall deny the motion,
22 or order a continuance to permit affidavits to be obtained or discovery to be had or may make
23 any other order as may be just. **The application to continue the motion to obtain
24 necessary discovery may also be made by ex parte motion at any time on or before the
25 date the opposition response to the motion is due.**" (CCP §437c(h), emphasis added.)

26 As the California Supreme Court noted in *Hayes v. Superior Court* (1940) 62 Cal.2d 260,
27 264, "[t]here is nothing novel in the concept that a trial court has the power to exercise a reasonable
28 control over all proceedings connected with the litigation before it. Such power necessarily exists as

1 one of the inherent powers of the court, and such power should be exercised by the courts in order to
2 insure the orderly administration of justice.” (See also: In re: Marriage of Hoffmeister (1984) 161
3 Cal.App.3d 1163; appeal after remand 191 Cal.App.3d 351; review denied, “Trial judge must
4 exercise his discretion with due regard to all interests involved, and refusal of continuance which has
5 practical effect of denying applicant a fair trial is reversible error.”)

6 **VIII. CONCLUSION**

7 For all the above reasons, Plaintiff respectfully requests that this Court grant her *ex parte*
8 application, and continue the hearing on Defendants’ Motion for Summary Judgment/Adjudication
9 against Plaintiff Cindy Guillen-Gomez. For the same reasons, Plaintiff respectfully requests that this
10 Court continue the dates the opposition and reply papers are due to the appropriate dates as provided
11 under Code of Civil Procedure § 437c as if the Motion for Summary Judgment/Adjudication was
12 originally set on the continued date.

13
14 Dated: June 10, 2010

LAW OFFICES OF RHEUBAN & GRESEN

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16 By: /s/
17 Steven M. Cischke
18 Attorneys for Plaintiffs
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1 *Burbank* since they were filed, Plaintiffs counsel needs additional time to conduct discovery with
2 respect to the Karagiosian MSJ.

3 7. It would not be reasonable to say that Plaintiffs should have done this discovery before
4 now. In addition to the 28 sessions of depositions taken in this case, Plaintiffs have been forced to
5 reply to an endless barrage of law and motion matters. The following list of proceedings held in the
6 case is taken from the Court's website :

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28	08/06/2009	Ex parte proceeding

1 07/27/2009 Ex parte proceeding

2 07/22/2009 Motion for an Order

3 8. Most recently, and since the time Plaintiffs received the Notice of the Karagiosian MSJ,
4 Plaintiffs have had to prepared oppositions to both the Summary Judgment Motion for Elfego
5 Rodriguez and the Guillen MSJ. This has taken a substantial amount of time, and resulted in the
6 continuance of the hearing date and response dates on the Guillen MSJ. Because Plaintiffs were kept
7 busy working on the oppositions to Elfego Rodriguez MSJ and the Guillen MSJ, Plaintiffs have not
8 had the time to take these depositions of those who filed declarations in support of the Karagiosian
9 MSJ. Plaintiffs believe these depositions are important because they believe that the individuals lack
10 sufficient foundation with which to opine on the various matters set forth in their declarations. More
11 specifically, Plaintiffs believe that the declaration of Janice Lower, and the statements contained
12 therein, lack sufficient foundation, and that examination on this topic would allow Plaintiff
13 Karagosian to refute the statements contained in her declaration.

14 9. In addition, there are three depositions which are necessary to present a complete
15 opposition to the Karagiosian MSJ – the depositions of Armen Dermenjian, Bill Taylor and ex-Chief
16 Tim Stehr. The reasons the depositions have not occurred thus far are numerous. Most importantly,
17 Plaintiffs were required to prepare oppositions to lengthy summary judgment motions with respect to
18 Cindy Guillen-Gomez and Elfego Rodriguez, and have learned from prior summary judgment
19 motions that this Court was dissatisfied with the content of declarations filed in opposition thereto.

20 10. Therefore, Plaintiffs need to complete the depositions of Bill Taylor, Armen Dermenjian
21 and Tim Stehr (or at least one or two sessions of each) to use to oppose the Karagiosian MSJ. With
22 respect to Chief Stehr, Plaintiffs believe that during the deposition Plaintiffs will learn numerous
23 facts which will be incorporated into the opposition of the MSJ – specifically, the manner in which
24 Chief Stehr describes the actions taken against Officer Karagosian will likely conflict with
25 descriptions provided by Lt. Omar Rodriguez, and presumably by Deputy Chief Bill Taylor, which
26 will create triable issues in the case.

27 11. Lt. Dermenjian was the supervising officer who received complaints from Officer
28 Karagiosian of racism, harassment and discrimination. His deposition is therefore necessary to

1 support Plaintiffs causes of action in that regard. Deputy Chief Bill Taylor has knowledge of the
2 budgetary issues surrounding the disbanding of the SED, as well as complete familiarity with matters
3 complained of by Officer Karagiosian. It is Plaintiffs' belief that Deputy Chief Taylor will reveal in
4 his deposition numerous facts which will be able to support Plaintiffs claims for harassment and
5 discrimination, including without limitation, the identify of individuals who received the complaints,
6 the manner in which the Burbank Police Department disregarded those complaints, and the
7 institutional indifference which lead to the hostile working environmental.

8 12. Furthermore, Plaintiffs wish to depose Janice Lowers, a Captain who purportedly made
9 the decision to disband SED. Plaintiffs are informed that Janice Lowers retired in the same time
10 frame as the decision-making process, and it makes little sense that an officer on her way out would
11 make decisions as to whether a particular unit would survive her retirement, particularly when an
12 identical unit was being created at that time by then-Chief Stehr to do the same job. Janice Lowers
13 was then brought back, and Plaintiffs are informed and believe she was paid a substantial amount of
14 money to assist in the defense of this lawsuit. Plaintiffs believe her deposition will reveal
15 information which will allow Plaintiffs to show that the Burbank Police Department did, in fact,
16 disband the SED to retaliate against Plaintiff Karagiosian, among others, and that many of the
17 actions taken against Plaintiff Karagiosian since that time were retaliatory, discriminatory and in
18 violation of the Fair Employment and Housing Act.

19 13. The trial dates have been continued in this case, and no prejudice will accrue by a
20 continuance of the Summary Judgment at this time. Initially, we believed that the deposition
21 testimony from the fifteen to twenty (15-20) parties and witnesses in this case, which we have
22 obtained thus far, would be sufficient to refute Defendants' Motion for Summary Judgment. After
23 we were unsuccessful for Plaintiff Jamal Childs, we believed that this Court simply misconstrued the
24 holding in *Beyda v. City of Los Angeles* (1998) 65 Cal.App.4th 511, 518-22, and that we simply
25 needed to provide additional briefing on that case and its true holding in order to move forward.
26 Unfortunately for Plaintiff Elfego Rodriguez, this was not the case. As a result, we now know that
27 we must develop additional evidence with which to oppose this Motions for Summary Judgment,
28 and that it also why we are so requesting at this time.

1 14. Plaintiffs have filed a motion to recuse Defendants' counsel in this action and intend to
2 file a second motion to recuse on different grounds in days. The grounds for the recusal include,
3 without limitation:

4 A. The improper and unethical continued use of a confidential attorney-client privileged
5 document which was inadvertently disclosed during discovery. Both Larry Michaels of Mitchell,
6 Silverberg & Knupp, and Linda Savitt of Ballard, Rosenberg, Golper and Savitt were ordered by the
7 Discovery Referee and this Court to return the confidential documents, and have failed to do so.
8 Moreover, both firms used the document in numerous ways throughout the litigation, as set forth in
9 the moving papers. It would, therefore, give the moving party an unfair advantage to allow these
10 attorneys to continue to represent the City of Burbank until this issue is resolved, and

11 B. Continuing retaliation on the part of the Burbank City Attorney's office, particularly
12 Julie Scott and Carol Humiston. On September 28, 2009, City Attorney Julie Scott improperly,
13 unethically and tortiously communicated with Plaintiff Cindy Guillen-Gomez during a sexual
14 harassment training session. Ms. Scott threatened Plaintiff Guillen-Gomez, and told the assembled
15 50 or so officers that her case was "Bullshit." More recently, on January 20, 2010, City Attorney
16 Carol Humiston retaliated against Plaintiff Steve Karagiosian by violating his rights under the Police
17 Officers Procedural Bill of Rights, Government Code § 3300, et seq. The deposition was then taken
18 of a L.A. District attorney (Rusty Moore) in which he opined that the only reason for Ms. Humiston
19 to have contacted him and tried to gather "dirt" on Plaintiff Karagiosian was in retaliation against
20 Karagiosian for filing the within complaint.

21 15. Plaintiffs will seek to amend the Complaint herein – to allege post-complaint acts of
22 retaliation and other violations of Plaintiffs' rights – prior to the summary judgment hearing. Unless
23 that hearing date is changed today, it will be impossible for either party or the court to address post-
24 complaint actions.

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16. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of June in Encino, California

15/
Solomon E. Gresen